

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

FILED BY 4 D.C.
05 JUL 15 PM 3:14
THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
W.D. OF TN, JACKSON

UNITED STATES OF AMERICA,)

Plaintiff,)

VS.)

No. 03-10017-T-An

CLOTHEL GARNER,)

Defendant.)

ORDER DENYING MOTION FOR EXTENSION OF TIME
TO FILE A SECTION 2255 MOTION

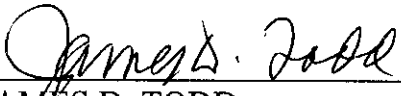
Defendant seeks an extension of time in which to file a motion under 28 U.S.C. § 2255. As grounds, Defendant states that he “was given the impression by his attorney that he would be filing the motion for him for some six months now.” According to Defendant, he learned on June 13, 2005, that his attorney is representing him only in the matter of the Rule 35 motion for reduction of sentence that the Government has filed.

Federal courts lack jurisdiction to consider a request for an extension of time to file a § 2255 motion prior to the filing of the motion itself. See Reed v. United States, 2001 WL 700811 (6th Cir.); United States v. Leon, 203 F.3d 162 (2nd Cir. 2000) (“If or when Leon actually files a § 2255 petition, the District Court and this court may consider his argument that such a petition should be considered timely. Until then, we lack jurisdiction to consider the matter.”) Because Defendant has not filed a § 2255 motion, the court does not have

jurisdiction to consider the motion for extension of time. Therefore, Defendant's motion is DENIED.

However, the court notes that the hearing on the motion to reduce Defendant's sentence is set for July 20, 2005. The action taken by the court at that hearing may eliminate the need for Defendant to file a § 2255 motion.

IT IS SO ORDERED.



JAMES D. TODD
UNITED STATES DISTRICT JUDGE



DATE



Notice of Distribution

This notice confirms a copy of the document docketed as number 54 in case 1:03-CR-10017 was distributed by fax, mail, or direct printing on July 18, 2005 to the parties listed.

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Honorable James Todd
US DISTRICT COURT